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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,395	11/14/2003	Benjamin Alexander Moglin	6337.1042	6844

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EXAMINER

ABRAHAM, TANIA

ART UNIT PAPER NUMBER

3636

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,395	Applicant(s) MOGLIN ET AL.	
	Examiner Tania Abraham	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 8 recites the limitation "said sleeve" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim. There is not an earlier reference to a sleeve in claim 8, or claims 7 and 1 on which it depends. Claim 8 also does not sufficiently relate the mouse tray and keyboard tray with the "computer mouse and keyboard support" of claim 7.

4. Claim 9 recites the limitation "said peripheral device" in line 13. There is insufficient antecedent basis for this limitation in the claim. There is no previous reference to a peripheral device in claim 9, or claim 1 on which it depends. Also, the block and mounting pipe have not been sufficiently related to the peripheral mounting system in claim 1.

5. Claim 10 recites the limitation "said peripheral device" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Park [US 6,916,065 B2]. Park (fig. 11) discloses structure as claimed, including a base 36, a chair 30, an overhead bar 60 and a mounting system 42c fixed to the end of the overhead bar. Park's mounting system 42c consists of a block connected to a pivoting bar with a segmented arm at its end. Mounting system 42c supports a computer monitor 50. With respect to claim 3, it is observed that Park's chair 30 with headrest 34 provides for an ergonomically designed chair.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 2, 4-7, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Bujaryn [US 5,542,746]. Park discloses everything previously mentioned as well as a footrest and a vertical bar connecting the chair and base. Park does not teach: the footrest attached to the base and the method of providing such; workstation portability and the method of providing such; additional peripheral support and the method of providing such; and height adjustment of the chair.

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Bujaryn (figures 1, 11-12, 26, 31) does teach a work chair that is portable, ergonomically designed and capable of supporting necessary components of a workstation (col. 8, lines 46-51) including the following:

- A footrest assembly 14 connected to base 3 to maximize user comfort.
- A number of legs 3 with casters 1 positioned at specific angles to make the chair portable and keep it balanced while moving or stationary.
- A vertically telescoping bar 4 for adjusting the height of the chair.
- A support assembly 11 for mounting a keyboard and/or mouse that offers better maneuverability and comfort for the user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Park to include the structures listed above in view of the teachings of Bujaryn in order to provide optimal comfort for the user. Regarding claim 5, note that tray 46 of Park may be construed as a "CPU mounting assembly". Concerning method claims 11-13 and 15, it is determined that the assembly and/or use of the structures taught by Park and Bujaryn encompasses the steps of these claims.

12. Claim 7, 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park and Bujaryn in further view of McNally [US 6,422,646 B1]. Park discloses everything previously mentioned, but does not teach the method of providing a frame on which to support a keyboard and mouse. McNally (fig. 3-4) does teach a support assembly with a frame attached at the base a chair 1 and extending vertically to attach at its upper end 17 to a horizontal bar 16 to which a tray 10 is pivotally attached. Rod 6 of the frame rotates and telescopes within vertical sleeve 5 of the frame. Therefore, it

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would have been obvious to one having ordinary skill in the art at the time of invention to modify Park to include a keyboard and mouse support tray attached to the base of a chair with a vertical telescoping section and a horizontally adjustable section, in view of the teaching of McNally in order to achieve maximum user comfort. It is determined that the assembly and/or use of the structures taught by McNally encompasses the steps of claim 14.

Conclusion


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown discloses a seat assembly with a chair secured to a base, having a bar with a rear end attached to the seat frame and extending up and over the back of the chair, and a mounting system for a peripheral device attached to the seat frame. Irwin et al discloses a chair with a link arm connected to its rear side and multiple arms extending upward and outward from the link arm, each with a mounting system for peripheral devices. Onishi discloses a chair with a desk assembly pivotally attached to the base of the chair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PETER R. CROWN
PRIMARY EXAMINER

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